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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 BOBBY DARRELL COLBERT,

9 Petitioner,

10 v.

11 JASON BENNETT,

12 Respondent.

CASE NO. 2:23-cv-1122

ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT

13 This matter comes before the Court on Petitioner Bobby Darrell Colbert's
14 motion for relief from judgment. Dkt. No. 21. Having considered the motion, the
15 record, and the law, the Court DENIES Colbert's motion for the reasons stated
16 below.

17 On April 23, 2024, the Court adopted the Honorable Michelle L. Peterson's
18 Report and Recommendation ("R&R"), overruled Colbert's objections to the R&R,
19 and dismissed Colbert's petition for lack of jurisdiction. Dkt. Nos. 19, 20.
20 Specifically, the Court agreed with Judge Peterson's finding that Colbert's intended
21 habeas petition was successive under 28 U.S.C. § 2244(b) and required Ninth
22 Circuit authorization. Dkt. No. 19 at 3.
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Colbert now seeks to reopen his habeas case, arguing that the Court failed to consider his objections de novo, and therefore, applied an incorrect legal standard. Dkt. No. 21 at 2-3.

Under Rule 60(b)(4)—the rule that Colbert invokes—a final judgment is void “only if the court that considered it lacked jurisdiction . . . or acted in a manner inconsistent with due process.” *United States v. Berke*, 170 F.3d 882, 883 (9th Cir. 1999). Here, Colbert claims the Court failed to “review dispositive matters de novo following [his] objections” and thus violated “not only . . . the Magistrates Act and Habeas Rule 8(b), but also . . . Article III and the Due Process Clause of the 5th and 14th Amendment[s] to the United States Constitution.” Dkt. No. 21 at 2.

As explained by the Court in its prior Order, it reviewed and made “a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection [was] made” per 28 U.S.C. § 636(b)(1)(C). Dkt. No. 19 at 3. Further, “[n]one of Colbert’s objections address[ed] the fact that he [was] seeking habeas relief related to the same criminal conviction” as his prior petition nor did they “address the Court’s lack of jurisdiction to consider a second or successive habeas petition until the Ninth Circuit has authorized its filing.” Accordingly, the Court overruled Colbert’s objections, which instead focused on the portion of the R&R striking Colbert’s motion for records, motion to appoint counsel, and motion for judicial notice. *See* Dkt. No. 16 at 1-2.

1 The Court did not commit legal error and there is no reason that its judgment
2 is void. Accordingly, the Court DENIES Colbert's motion for relief from judgment,
3 Dkt. No. 21, and this case remains closed.

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5 Dated this 23rd day of October, 2024.

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8 Jamal N. Whitehead
9 United States District Judge
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